

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

JOHN LEE DEIGHAN,

Plaintiff,

vs.

KILOLO KIJAKAZI, Acting
Commissioner of the Social Security
Administration,

Defendant.

CV 20-63-GF-JTJ

ORDER

Plaintiff John Lee Deighan (Deighan) has moved for an award of attorney's fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). Deighan initially sought \$7,656.38 in attorney's fees and \$17.25 in expenses. (Doc. 28). Deighan agreed to reduce his EAJA fee request to \$7,245.88 after conferring with the Commissioner of the Social Security Administration (Commissioner). (Doc. 30 at 2). The Commissioner does not oppose Deighan's motion for EAJA fees in the amount of \$7,245.88 and expenses in the amount of \$17.25. (Doc. 30).

The Court has reviewed Deighan's application. The Court finds that the application is proper and that the amount requested is reasonable.

Fee awards under EAJA are subject to an offset to satisfy any debt that the

plaintiff owes the government. *Astrue v. Ratliff*, 560 U.S. 586, 593-94 (2010). If the plaintiff has no debt that qualifies as an offset under the Treasury Offset Program, the plaintiff may assign his or her right to receive the fee award to his or her attorney. *Id.* at 597-98; *Webster v. Berryhill*, 2018 WL 4290395, *2 (D. Mont. Sept. 7, 2018).

Accordingly, IT IS HEREBY ORDERED:

1. Deighan's Application for an Award of EAJA Fees and expenses (Doc. 28) is GRANTED. Deighan is entitled to an award of attorney's fees and expenses under 28 U.S.C. § 2412 in the amount of \$7,263.13, less any offset allowed under the Treasury Offset Program.
2. If, after receiving this Order, the Commissioner determines that Deighan owes a debt that qualifies as an offset under the Treasury Offset Program, the Commissioner should issue a check made payable to Deighan in the amount of \$7,263.13 less the amount of the offset. Deighan's award check should be mailed to Deighan's attorney, Eric Rasmusson, at the following address:

Rasmusson Law Offices, PLLC
218 E. Front Street, Suite 200
Missoula, MT 59802
3. If the Commissioner determines that Deighan has no outstanding debt that qualifies as an offset under the Treasury Offset Program, and that Deighan has

assigned his right to the EAJA fee award to his attorney, the Commissioner should make the check payable to Eric Rasmusson.

DATED this 25th day of January, 2022.



John Johnston
United States Magistrate Judge